



# City of Santa Barbara California

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** January 13, 2016  
**AGENDA DATE:** January 20, 2016  
**PROJECT ADDRESS:** 118 North Milpas Street (MST2015-00319)  
 “The Canopy”

**TO:** Susan Reardon, Senior Planner, Staff Hearing Officer

**FROM:** Planning Division, (805) 564-5470  
 Beatriz Gularte, Senior Planner  
 Tony Boughman, Assistant Planner

### I. PROJECT DESCRIPTION

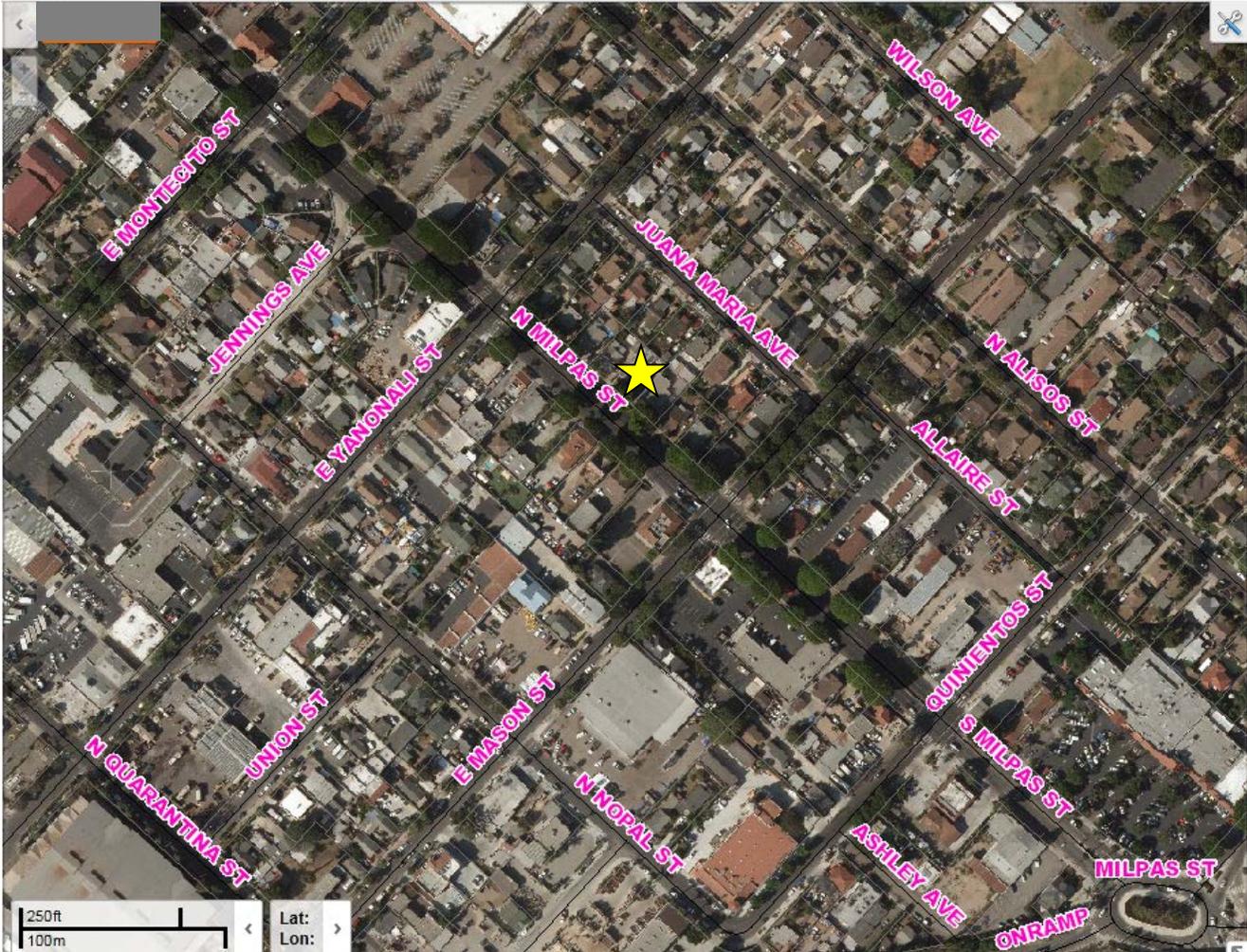
The project consists of a proposal for a Medical Marijuana Storefront Collective Dispensary Permit. The dispensary would be located in an existing 2,264 square foot commercial building. Interior and exterior improvements are proposed.

### II. REQUIRED APPLICATIONS

The discretionary application required for this project is a Medical Marijuana Storefront Collective Dispensary Permit (SBMC §28.80.030).

### III. RECOMMENDATION

If approved as proposed, the project would conform to the City’s Zoning Ordinance. Therefore, staff recommends that the Staff Hearing Officer approve the project, making the findings outlined in Section VII of this report, and subject to the conditions of approval in Exhibit A.



Vicinity Map - 118 North Milpas Street

**IV. SITE INFORMATION**

<b>Applicant:</b>	Ryan Howe		
<b>Property Owner:</b>	Merry Milpas LLC		
<b>Site Information</b>			
<b>Parcel Number:</b>	017-091-016	<b>Lot Area:</b>	4,449 sq. ft.
<b>General Plan:</b>	Commercial/High Density Residential	<b>Zoning:</b>	C-2, Commercial
<b>Existing Use:</b>	Vacant commercial building	<b>Topography:</b>	Flat
<b>Adjacent Land Uses</b>			
<b>North</b>	Residential	<b>East</b>	Residential
<b>South</b>	Residential	<b>West</b>	Residential and Commercial

V. **ZONING ORDINANCE CONSISTENCY**

Medical Cannabis Dispensaries are governed by Chapter 28.80 of the Santa Barbara Municipal Code (SBMC). The following discussion provides an analysis of the proposed project's consistency with that Chapter.

A. STOREFRONT COLLECTIVE DISPENSARY LIMITATIONS

The proposed dispensary complies with the location limitations in SBMC §28.80.050. The parcel is commercially zoned and located in the allowed 00 to 400 blocks of North Milpas Street. The one-story commercial building is set back approximately five feet behind the sidewalk and provides good visibility of the entrance, and visibility into and out of the dispensary through the large front windows. A separate accessible entrance on the south side of the building is set back approximately 22 feet and also has good visibility. The location is not within 1,000 feet of another dispensary, it would be the only dispensary in the Milpas Street area, and it would not result in more than three permitted dispensaries in the City.

B. ISSUANCE CRITERIA

The Zoning Ordinance requires that the Staff Hearing Officer consider the following issuance criteria in determining whether to grant or deny a Storefront Collective Dispensary permit (SBMC §28.80.070.B):

*1. That the Collective Dispensary permit and the operation of the proposed Dispensary will be consistent with the intent of the Compassionate Use Act of 1996 and the SB 420 Statutes for providing medical marijuana to qualified patients and primary caregivers, and with the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.*

The applicant states in his introduction letter that the proposed Storefront Collective Dispensary, "The Canopy", will operate under the laws of the Compassionate Use Act of 1996 (Proposition 215) and Senate Bill 420 (Exhibit B, page 5). The operations plan, security plans, and signed affidavits indicate compliance with the dispensary ordinance and Municipal Code.

*2. That the proposed location of the Storefront Collective Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity.*

The location is not identified by the City Police Department as an area of increased or high crime activity.

*3. For those applicants who have operated other Storefront Collective Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area of the applicant's former location.*

The applicant has not operated any other Storefront Collective Dispensaries in the City.

*4. That issuance of a Collective Dispensary permit for the Collective Dispensary size requested is appropriate to meet needs of the community for access to medical marijuana.*

The proposed interior tenant improvements in the existing 2,264 square foot one-story commercial building will create separate areas for waiting, dispensing, office, and secured storage (Exhibit B pages 8 & 29). The proposed size is appropriate to safely and efficiently operate a dispensary to meet the needs of the community.

*5. That issuance of the Collective Dispensary permit would serve needs of City residents within a proximity to this location.*

The dispensary would be located in the Milpas neighborhood and would be centrally located among the neighborhoods on the east side of the City. Of the five allowed dispensary location areas within the City, the Milpas Street area is the only one located on the east side of the City. The location on the Milpas Street thoroughfare would provide easy access, and is reasonably close to Metropolitan Transit District (MTD) bus stops.

*6. That the location is not prohibited by the provisions of this Chapter or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.*

The proposed location is not prohibited, and it complies with the location limitations in SBMC §28.80.050. The parcel is commercially zoned and located in the area of Milpas Street where dispensaries are allowed. The commercial building has good public visibility and no significant nuisance issues or problems are likely or anticipated with regard to this location.

*7. That the Dispensary's Operations Plan, its site plan, its floor plan, the proposed hours of operation, and a security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.*

The application proposes physical improvements shown on the site plan consisting of security cameras, and a see-through fence to control the exterior of the property. The floor plan is configured to provide a large waiting area to reduce the chance of loitering outside, high quality doors and locks, a secure wall and controlled access between the waiting and dispensing areas, and provides a built-in vault for secure storage. The operations plan gives detailed descriptions of the means by which the proposed operation will comply with requirements (Exhibit B, pages 9 & 19). Members are informed, and must sign a membership agreement which lists requirements and prohibitions (Exhibit B, page 47). The security plan proposes two security guards on site during business hours, a registered alarm system (required by ordinance), and interior and exterior security cameras with recordings secured in the vault (Exhibit B, page 31).

*8. That all reasonable measures have been incorporated into the Dispensary security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business.*

Two security guards are proposed to be on site during business hours. Security guards' responsibilities will include screening new and prospective members, monitoring and controlling the conduct of members and removal of graffiti. The application proposes a "zero tolerance" clause in the membership agreement regarding members and employees loitering and/or using cannabis within 200 feet of the dispensary. This form includes items regarding courteous behavior, being respectful to neighboring businesses and residences, not littering or loitering, and not medicating in or around the premises. Staff expects to review an updated membership agreement form including the zero tolerance clause, and the proposed onsite signage addressing member behavior (Exhibit B, pages 10, 31 & 47).

*9. That the Storefront Collective Dispensary is likely to have no potentially adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and that the Dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.*

The proposed security plan and operations plan should avoid nuisance behavior and adverse effects on health, peace, and safety of persons in the surrounding area. Adequate lighting exists, and security cameras would be inside and outside the building. One of the two security guards would patrol the exterior of the premises at least once per hour, and ensure the street and sidewalk are free of loitering, and that other businesses are not negatively affected. The patrolling guard would watch for alcohol or cannabis use, address nuisance issues, pick up litter, and report graffiti. Hours of operation are limited to 8 AM to 6 PM, Monday through Saturday. Therefore, the dispensary operation is not likely to have adverse effects on the health, peace, or safety of persons living or working in the surrounding area; overly burden a specific neighborhood; or contribute to a public nuisance (Exhibit B, pages 11 & 31).

*10. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.*

No violations of municipal code provisions, conditions of any City-issued permits, or any other local or state law, regulation or order, or any condition imposed by permits issued in compliance with any local or state law have been identified. The Staff Hearing Officer has the authority to suspend or revoke the Storefront Collective Dispensary Permit pursuant to SBMC Section 28.80.120 if it appears to that Officer that the Dispensary permittee has violated any of the requirements of Chapter 28.80, or the dispensary is being operated in a manner which violates

the operational requirements or operational plan required by the Dispensary Ordinance, or it is operated in a manner which conflicts with state law.

*11. That the Applicant has not made a false statement of material fact or has omitted to state a material fact in the application for a permit.*

The applicant, Ryan Howe, signed a statement that all information in the application is true. Staff has not discovered any false statements or omissions of material facts in the application materials.

*12. That the Applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.*

The applicant passed the required background check. The applicant included a signed statement in his application that he has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City.

#### PARKING

The dispensary ordinance specifies that a dispensary shall be considered a commercial use relative to the parking requirement (SBMC §28.80.080.D.6). This location has never had any onsite parking, and is therefore legal, non-conforming to the commercial parking requirement to provide one space per 250 square feet of floor area (SBMC §28.90.100.I). The application proposes four bicycle parking spaces on site. The conforming parking requirement would be nine onsite vehicle spaces and one bicycle space. The configuration of the site makes onsite parking infeasible, as commercial parking is not allowed to back out onto Milpas Street and there is not enough space to turn a vehicle around on the site. The applicant anticipates using on street parking for employees and members. Because additional parking is not a zoning requirement, nor is it a criterion for the issuance of a Storefront Collective Dispensary Permit, staff does not consider parking to be a significant issue. Once the dispensary is open and operating, the applicant may request that Transportation Engineering staff conduct an on-street parking occupancy study to determine if a 15 minute green curb zone in front of the building would be beneficial for the project. Many of the dispensary members are anticipated to be disabled; however, the City is moving away from adding on-street blue zones for the disabled for private residences or businesses.

## **VI. ENVIRONMENTAL REVIEW**

Staff has determined that the project qualifies for a Categorical Exemption from further environmental review under Section 15301(a) (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines. The project involves interior and exterior tenant improvements in an existing commercial building, and landscaping improvements.

**VII. FINDINGS**

The Staff Hearing Officer finds the following:

**STOREFRONT COLLECTIVE DISPENSARY PERMIT (SBMC §28.80.070)**

The application complies with the location criteria of SBMC §28.80.050, as outlined in Section V.A of the staff report, and with the criteria for issuance of a Storefront Collective Dispensary permit set forth in SBMC §28.80.070.B, as explained in Section V.B of the Staff Report and the applicant's submittal.

Exhibits:

- A. Conditions of Approval
- B. Application, Executive Summary, and Operating Plan
- C. Project Plans – distributed separately